

Election/Restriction

The Office Action indicated that the application contains claims directed to five species. Applicants confirm the election of the species of group V. This election is made without traverse.

Claim rejections - 35 U.S.C. 102

Claims 1, 5, 7, 9, 11-16, 20-23, 31-35 and 40 have been rejected under 35 U.S.C. 102(e) as being anticipated by Parks. This rejection is respectfully traversed. However, in order to expedite prosecution, independent claims 1 and 21 have been amended to include limitations similar to allowed claim 41. Hence, the Parks patent does not anticipate independent claims 1 and 21. Claims 5, 7, 9, 11-16 and 20 depend from claim 1. Claims 23, 31-35 and 40 depend from claim 21.

Claim rejections - 35 U.S.C. 103

Claims 2-4, 6, 8 and 25-29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Parks in view of Maki. Claims 3, 4, 6 and 8 depend from claim 1, and claims 25-29 depend from claim 21. As described above, claims 1 and 21 have been amended to include limitations similar to those in allowed claim 41. More specifically, claim 1 has been amended to claim that the vibratable member has a distal end in the vicinity of the opening, and that the vibratable member is vibrated in an up and down motion relative to the powder in the hopper. Further, the distal end of the vibratable element is moved laterally through the fine powder while the vibratable element is vibrating. Claim 21 has been amended to claim a vibrator motor to vibrate the vibratable member when within the fine powder in an up and down motion, and a mechanism for moving the vibratable member over the chamber while the vibratable member is vibrating.

In contrast to claims 1 and 21, the Maki reference illustrates in Figure 5 an apparatus 11 that has a rod 14 that is fixed to a vibrating plate 17. Plate 17 is in turn pressed against a feeding pipe 13. As such, it is impossible to move rod 14 laterally through the powder in pipe 13 while rod 14 is vibrating in an up and down motion. Hence, claims 3, 4, 6 and 8

which depend from claim 1, and claims 25-29 which depend from claim 21 are distinguishable and in condition for allowance.

Claims 18, 19, 38 and 39 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Parks in view of Boesch. Claims 18 and 19 depend from claim 1 and claims 38 and 39 depend from claim 21. As previously described, these independent claims are distinguishable over Parks. Since the Boesch patent also fails to teach or suggest such limitations, claims 18, 19, 38 and 39 are distinguishable and in condition for allowance.

Claims 24 and 36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Parks. Claims 24 and 36 depend from claim 21 which is distinguishable over Parks as previously described. Hence, claims 24 and 36 are in condition for allowance.

Claims 1-6, 9, 12-17, 18-21, 25-29 and 31-40 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi in view of Maki. As previously described, independent claims 1 and 21 have been amended to claim vibration of an element in an up and down motion and moving the element laterally through the powder while the element is vibrating. Nowhere in the Kawaguchi patent is such a feature taught or suggested. Indeed, Kawaguchi describes a rotatable stirrer 6. As previously described, the Maki patent described a vibratable rod that is mounted such that it is impossible to laterally move through the powder while vibrating. Hence, the rejection of claims 1-6, 9, 12-17, 18-21, 25-29 and 31-40 in view of Kawaguchi and Maki is rendered moot, and it is respectfully requested that the section 103 rejection of these claims be withdrawn.



CONCLUSION

All claims should now be in condition for allowance. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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